

REMARKS

I. Application Status

The present Response and RCE are submitted in reply to the final Office Action issued July 8, 2009. Prior to entry of the present Response, claims 1, 4-42, and 46-49 were pending in the Subject Application. Claims 4, 6-18, 24-27, 29-32, and 35-42 were withdrawn, and claims 1, 5, 19-23, 28, 33, 34, and 46-49 were under examination on the merits.

In the Office Action, claims 1, 5, 19-23, 28, 33, 34, and 46-49 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Claims 1, 5, 19-23, 28, 33, 34, and 46-49 stand rejected under 35 U.S.C. § 102(b) or 102(e) as allegedly being anticipated by U.S. Patent No. 5,984,997 to Bickmore et al. ("Bickmore"). Claims 1, 5, 19-23, 28, 33, 34, and 46-49 stand rejected under 35 U.S.C. § 102(b) or 102(e) as allegedly being anticipated by U.S. Patent No. 6,344,271 ("US-271"). Claims 1, 5, 19-23, 28, 33, 34, and 46-49 stand rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 11, 14, 20, 23, and 35-45 of US-271.

Applicant respectfully traverses all rejections. In view of the amendments and remarks set forth herein, Applicant respectfully requests reconsideration, withdrawal of the rejections, and allowance of the Subject Application. All references to the "Specification" herein, including page and paragraph numbers, refer to the Specification of the Subject Application as originally filed, not as published.¹

II. Amendments to the Claims

Previously pending claims 1, 4-42, and 46-49 are cancelled herein without prejudice or disclaimer. New claims 50-78 are added herein. New claims 50, 63, 77, and 78 are independent claims. Support for new claims 50-78 may be found in the

¹ It is respectfully noted that Applicant's previous Response identified the paragraph numbers of the application as published, not as originally filed. If necessary, the Examiner is encouraged to review the prior Response with this fact in mind.

originally filed Specification as indicated in the table provided below. Applicant submits that the new claims do not add any new matter to the Subject Application.

New Claim No.	Support in as-filed Specification
50	Non-stoichiometric nanomaterials represented by the recited formula are described, for example, in paragraphs [0049]-[0071]. The formula and the meaning of the variables contained in the formula are described in detail in paragraphs [0064]-[0066] and [0187], specifically. The material property feature is described in paragraph [0014].
51	Paragraph [0064]
52	Paragraphs [0066], [0071]
53	Paragraphs [0066], [0071]
54	Paragraphs [0015], [0057], [0060]
55	Paragraph [0060]
56	Paragraph [0069]
57	Paragraph [0069]
58	Paragraph [0069]
59	Paragraph [0093]
60	Paragraph [0096]
61	Paragraphs [0034] - [0038], [0042], [0104]-[0110]
62	Paragraphs [0034], [0109], [0186]
63	Paragraphs [0034] - [0037], [0042], [0104]-[0110] in conjunction with paragraphs [0049]-[0071], [0187]
64	Paragraphs [0107] - [0108]
65	Paragraphs [0107] - [0108]
66	Paragraphs [0034], [0109]
67	Paragraph [0064]
68	Paragraphs [0066], [0071]
69	Paragraphs [0066], [0071]
70	Paragraphs [0015], [0057], [0060]
71	Paragraph [0060]
72	Paragraph [0069]
73	Paragraph [0069]
74	Paragraph [0069]
75	Paragraph [0093]
76	Paragraph [0096]
77	Paragraphs [0049]-[0071], [0187]
78	Paragraphs [0034] - [0037], [0042], [0104]-[0110] in conjunction with paragraphs [0049]-[0071], [0187]

The present cancellations (and all prior amendments and cancellations) are made without prejudice or disclaimer to the subject matter of the claims as originally filed or previously presented. Furthermore, Applicant does not acquiesce or otherwise concede the correctness of the rejections to the original claims or the previously presented claims. Accordingly, Applicant hereby reserves the right to pursue the

subject matter of the claims as previously presented – or as originally filed – in related applications that may be currently on file or filed at a later date. Moreover, Applicant hereby reserves the right to submit in such related applications arguments made in connection with the Subject Application. The amendments presented herein are made solely to expedite the prosecution of the Subject Application.

III. The Prior Restriction Requirement

Applicant notes that the Office imposed a restriction requirement in the Office Action mailed on October 25, 2005. In response to the restriction requirement, the Applicants at that time had apparently constructively elected chalcogen-containing nanomaterials as the species for further prosecution. Applicant respectfully submits that the new claims 50-76 are readable on the elected chalcogen-containing nanomaterials. New claims 77 and 78 are withdrawn. However, Applicant respectfully requests rejoinder and consideration of new claims 77 and 78.

IV. Double Patenting Rejections

The double patenting issues raised in the Office Action are of the nonstatutory obviousness-type. Nonstatutory obviousness-type double patenting involves the rejection of a claim when the claimed subject matter is not patentably distinct from the subject matter claimed in a commonly owned patent. MPEP § 804.II.B.1. As stated in this section of the MPEP:

Any obviousness-type double patenting rejection should make clear:

- (A) The differences between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and
- (B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention defined in a claim in the patent.

Thus, an obviousness-type double patenting analysis requires a claim-to-claim comparison of the substantive features recited in the respective claims. However, the

claims in a pending patent application may be amended during prosecution in response to issues arising under the statutory patentability requirements, e.g., 35 U.S.C. § 112, § 102, and § 103. Therefore, a substantive response to a nonstatutory obviousness-type double patenting rejection would be premature until the pending claims are determined to be otherwise patentable under the statutory provisions because the scope of the claims may change during prosecution in connection with the statutory requirements.

Accordingly, Applicant requests that the Office stay the nonstatutory double patenting issues raised in the Office Action pending final disposition of the claims in the Subject Application with respect to all statutory rejections and any other objections. Thereafter, the substance of the nonstatutory double patenting issues may be properly analyzed and addressed in view of the otherwise allowable subject matter and its relation, if any, to the subject matter claimed in U.S. Patent No. 6,344,271.

Please note that Applicant does NOT acquiesce in or otherwise concede the correctness of the nonstatutory obviousness-type double patenting rejection set forth in the Office Action, contrary to the Office's assumption. Applicant is merely deferring making any substantive argument against the nonstatutory obviousness-type double patenting rejection, or filing a terminal disclaimer, until the Office agrees that the claims are otherwise allowable. Applicant will address the nonstatutory obviousness-type double patenting rejection at that time.

V. Examiner's Notes/Warning

In the Office Action, the Office set forth the following paragraph under the heading Examiner's Notes/Warning.

Applicant is advised that the delay of filing the instant claims, which claims in this case are broader than the claims of previously related applications, without benefit of a restriction requirement, may give the appearance of prosecution latches [*sic*]. The doctrine of prosecution latches [*sic*] renders patented claims unenforceable. In re Boge II, 303 F.3d 1362, 1396 [64 USPQ2d 1448] (Fed. Cir. 2002).

Applicant respectfully submits that the Office's apparent warning is unnecessary because the prosecution of the Subject Application does not implicate the doctrine of

prosecution laches.

The case cited by the Office, In re Bogese II, is factually and legally distinguishable from and inapplicable to the present case. In In re Bogese II, the applicant filed a continuation application followed by a series of twelve (12) file wrapper continuation applications² over a seventeen (17) year span. 64 USPQ2d at 1449-1450. In each continuation, the applicant repeated a pattern of failing to make any claim amendments to advance prosecution. Id. Every single application in the fourteen application chain (*i.e.*, original parent application – first continuation application – 12 consecutive file wrapper continuation applications) contained the same set of claims that were repeatedly rejected. Id.

The Court held that the applicant's failure to advance prosecution constituted prosecution laches. Id. at 1453. The Court based the holding in the fact that the applicant successively filed numerous continuing applications, each with the exact same claims and did nothing to substantively advance prosecution of the subject claims. Id. The Court in In re Bogese II did not mention claim breadth or restriction requirements in any capacity whatsoever. Thus, the Office's statement that a case in which claims "are broader than the claims of previously related applications, without the benefit of a restriction requirement, may give the appearance of prosecution laches [*sic*]" is unsupported by any legal authority.

Moreover, the doctrine of prosecution laches is clearly not implicated by the present case. The Subject Application contains claims of different scope and content than any of the applications/patents contained in the present priority claims. Moreover, contrary to the applications at issue in In re Bogese, the claims of the Subject Application have been amended during prosecution to clarify the claimed subject matter. Indeed, the Court in In re Bogese held that:

An applicant's attempt to obtain new claims directed to inventions that he or she believes are fully disclosed and supported in an earlier application, however, is easily distinguishable from [Bogese's] failure to further the prosecution of his application toward the issuance of any claims. (Emphasis added).

² The file wrapper continuation application was the precursor to the modern RCE and is not longer available under the procedures of the Office. MPEP § 201.06(b).

Id. at 1454. Here, Applicant has conducted the prosecution of the Subject Application with a diligent effort toward allowance of the previously pending claims. Thus, Applicant submits that prosecution laches is not relevant to the Subject Application.

VI. Related Applications and Priority Issues

The Subject Application claims priority to U.S. Provisional Patent Application Nos. 60/107,318 and 60/110,442, filed November 6, 1998 and December 1, 1998, respectively. The priority claims extend through a chain of related applications (the benefit of the filing dates of which are claimed in the Subject Application) as set forth in the table below. The five (5) related applications in the chain are incorporated by reference into the Subject Application in paragraph [0001] of the Specification.

Application No.	Filing Date	Status	Relationship
60/107,318	6-Nov-98	Inactive	Provisional
60/110,442	1-Dec-98	Inactive	Provisional
09/274,517	23-Mar-99	Issued (6,344,271)	Parent
10/150,722	17-May-02	Issued (6,602,595)	Divisional
10/449,278	20-May-03	Issued (6,830,822)	Divisional
10/811,628	29-Mar-04	Pending (Subject Application)	Continuation

The Subject Application is a continuation of Application No. 10/449,278.

Application No. 10/449,278 was a divisional of Application No. 10/150,722. Application No. 10/449,278 also claimed priority to Application Nos. 60/110,442 and 60/107,318. Application No. 10/449,278 incorporated by reference the disclosures of Application Nos. 10/150,722; 09/274,517; 60/110,442; and 60/107,318. See U.S. Patent No. 6,830,822 at column 1, lines 5-19.

Application No. 10/150,722 was a divisional of Application No. 09/274,519. Application No. 10/150,722 also claimed priority to Application Nos. 60/110,442 and 60/107,318. Application No. 10/150,722 incorporated by reference the disclosures of Application Nos. 09/274,517; 60/110,442; and 60/107,318. See U.S. Patent No. 6,602,595 at column 1, lines 4-15.

Application No. 09/274,517 was a non-provisional that claimed priority to Application No. 60/107,318. Application No. 09/274,517 incorporated by reference the disclosure of Application No. 60/107,318. See U.S. Patent No. 6,344,271 at column 1, lines 5-9.

Thus, continuity-of-disclosure exists from U.S. Provisional Patent Application Nos. 60/107,318 and 60/110,442 through the above-described application chain to the Subject Application. Tapeshe Yadav is an inventor common to all of the applications in the chain. Each application in the chain was co-pending at the relevant times with at least one earlier-filed application in the chain back to Application No. 10/150,722. Accordingly, the Subject Application is entitled to a filing date of at least May 17, 2002 for any claims supported by any of the applications in the chain.

VII. Claim Rejections under 35 U.S.C. §112, first paragraph

Applicant respectfully submits that the claim rejections under 35 U.S.C. § 112 are moot in view of the new claims presented herein. Nevertheless, Applicant addresses the § 112 issues in connection with the new claims, which Applicant submits fully comply with the requirements under § 112.

A. The Legal Standards for Enablement under 35 U.S.C. § 112

Any analysis of whether a particular claim is supported by the disclosure in an application requires a determination of whether that disclosure, when filed, contained sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the claimed invention without undue or unreasonable experimentation. MPEP § 2164.01 (case law citations omitted). The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. Id.

The fact that experimentation may be complex does not necessarily make it undue, if the art typically engages in such experimentation. Id. The test of enablement is not whether any experimentation is necessary, but if experimentation is necessary, whether it is undue. Id. As long as the specification discloses at least one method for making and using the claimed invention that bears a reasonable correlation to the entire scope of the claim, then the enablement requirement of 35 U.S.C. § 112 is satisfied. MPEP § 2164.01(b) (citing In re Fisher, 427 F.2d 833, 839, 166 USPQ 18, 24 (CCPA 1970)).

B. The New Claims are Fully Enabled

Applicant respectfully submits that the new claims are fully enabled. The Specification provides a number of examples of non-stoichiometric materials generally represented by the formula recited in claims 50, 63, 77, and 78. See paragraphs [0049]-[0052], and [0069], for example. Paragraph [0053] incorporates a number of methods of preparing nanomaterials, including the thermal quenching methods taught in US-5,788,738. Additional thermal quenching methods are taught in US-5,851,507 and emulsion combustion methods are taught in US-5,984,997, both of which are incorporated in paragraph [0088].

The Office previously asserted that these methods are cited in connection with nanofillers and are not extendable to nanomaterials comprising chalcogens. However, a person skilled in the art would be capable of taking the methods disclosed in the incorporated patents and using those methods to form chalcogen-containing nanomaterials from readily available precursors. The chalcogen-containing nanomaterials may be binary metal chalcogenides (e.g., FeS), mixed metal or multimetallic chalcogenides (e.g., (Ni,Fe)₉S₈; "pentlandite"), or polymetallic chalcogenides (e.g., Ag(Fe,Ni)₈S₈; "argentopentlandite", or (Co,Ni,Fe)₉S₈; "cobalt pentlandite"). Indeed, GeTe-Sb₂Te₃, AgInSbTe, InSbSe, InSbTe, GeSbSe, GeSbTeSe, and AgInSbSeTe are all chalcogenide materials in that are well-known in the optical disk and phase-change memory fields.

The Office's definition of chalcogenide as only a binary inorganic composition consisting of a metal cation and a chalcogen anion is incorrect. Iron oxide (FeO and Fe_2O_3) are oxides, but NiFe_2O_4 ; $\text{Co}_{0.5}\text{Ni}_{0.5}\text{Fe}_2\text{O}_4$; and PbZrTiO_{3-x} are also oxides. In like manner, FeS ; $(\text{Ni,Fe})_9\text{S}_8$; $\text{Ag}(\text{Fe,Ni})_8\text{S}_8$; and $(\text{Co,Ni,Fe})_9\text{S}_8$ are also all chalcogenides. In this manner, an oxide is a compound comprising oxygen and one or more electropositive elements, typically metals and/or metalloids. Likewise, a chalcogenide is a compound comprising a chalcogen and one or more electropositive elements, typically metals and/or metalloids. Moreover, Applicant notes that oxygen is a species of the genus chalcogen and, likewise, oxide is a species of the genus chalcogenide. The Office has provided no technological basis in support of the asserted distinction between oxygen/oxide and chalcogen/chalcogenide. Indeed, a person skilled in the art would appreciate the similar inorganic chemistry exhibited by all of the group 16 elements O, S, Se, and Te in materials as described in the Subject Application.

Therefore, a person skilled in the art is readily capable of making chalcogen-containing nanomaterials using the methods incorporated in the Subject Application. These incorporated methods may be modified and/or supplemented as described, for example, in paragraphs [0120], [0122], or [0123] to produce non-stoichiometric nanomaterials. As described in paragraph [0121], the techniques described in US-5,788,738 may be adapted directly to produce non-stoichiometric nanomaterials. Indeed, there is no reason why a person skilled in the art would not be readily capable of using the information described and/or incorporated in the Subject Application to produce a non-stoichiometric nanomaterial as recited in the new claims.

Some level of experimentation may be needed to determine the optimum operating parameters needed to achieve particular levels of non-stoichiometry and/or morphology in particular nanomaterials. However, such experimentation, while possibly complex, would not be unreasonable or undue in this context. In fact, such experimentation would likely be routine in any specific implementation of a process for producing nanomaterials as part of optimization.

The recitation in claims 50 and 77 of “wherein a value for a selected material property of the non-stoichiometric nanomaterial is greater than 10% different from a value for the same property for a stoichiometric form of the nanomaterial” may also be readily implemented by a person skilled in the art. All that is required is a comparison of various material properties of a non-stoichiometric nanomaterial and an otherwise identical stoichiometric form of the nanomaterial. These techniques would also be routine.

The Office has also previously expressed concern over the various use of the terms nanomaterial, nanopowder, nanofiller, and the like, in the Subject Application. In particular, the Office asserted enablement rejections stating that certain portions of the Specification describe nanomaterials, nanopowders, or nanofillers. Applicant respectfully submits that the Office is drawing a distinction without a difference.

A nanofiller is a nanomaterial. Likewise, a nanopowder is a nanomaterial. The important property is the nanoscale domain size of the material, not the particular written label attached to the material. The portions of the Specification describing nanomaterials generally are equally applicable to “nanopowders” and “nanofillers”. The fact that nanofillers are used in composite applications is irrelevant because the technological considerations are the same. A nanofiller having a particular aspect ratio is in fact a nanomaterial having that aspect ratio. The semantics of the labels used to identify a nanomaterial for a particular application does not limit the technological disclosure related to that nanomaterial.

Moreover, a person skilled in the art is fully enabled to make the nanostructured composites recited in claim 63-76 and 78. For example, paragraphs [0034]-[0038], [0104]-[0110], and Examples 1, 2, 4, describe the making of nanostructured composites as recited in the claims of the Subject Application. A person skilled in the art would be readily capable of implementing these methods to make the materials recited in the claims of the Subject Application.

Therefore, Applicant respectfully submits that the new claims fully comply with the requirements under 35 U.S.C. § 112.

VIII. Claim Rejections under 35 U.S.C. §102(b) or 102(e)

Applicant respectfully submits that the claim rejections under 35 U.S.C. § 102 are moot in view of the new claims presented herein. Nevertheless, Applicant addresses § 102 issues in connection with the new claims, which Applicant submits are novel.

A. US-271 is not prior art with respect to the Subject Application

As noted above in *Section V*, the Subject Application is entitled to a filing date of at least May 17, 2002 for any claims supported by any of Application Nos. 10/150,722; 09/274,517; 60/110,442; or 60/107,318. A review of Application No. 10/150,722 (US-6,602,595) readily reveals that the application contains much of the same disclosure as is contained in the Subject Application. For example, the portions of the Subject Application identified in the table provided in *Section II*, above, are all found *verbatim* in US-6,602,595, except for paragraphs [0085]-[0118]. The relevant subject matter described in paragraphs [0085]-[0118] of the Specification is generally incorporated by reference into US-6,602,595 from the earlier applications in the priority chain. Thus, the new claims in the Subject Application are entitled to a filing date of May 17, 2002.

In relevant part, 35 U.S.C § 102(a) precludes patentability if the claimed subject matter was described in a printed publication before the invention of the claimed subject matter by the inventors. As a purely factual matter, the inventors in the Subject Application invented the subject matter recited in the new claims of the Subject Application before US-271 issued on February 5, 2002. This is so because US-271 issued from a related application that described the subject matter recited in the new claims of the Subject Application. The subject matter described in Application No. 09/274,517 had to have been invented before US-271 issued from the Application. It is factually impossible for US-271 to describe the disclosed subject matter before the inventors ever invented the disclosed subject matter. Therefore, US-271 does not

qualify as prior art under 35 U.S.C § 102(a).

In relevant part, 35 U.S.C § 102(b) is a statutory bar to patentability if the claimed subject matter was described in a printed publication more than one year prior to the date of the application for patent in the United States, taking into consideration priority and benefit claims. US-271 issued on February 5, 2002, less than one year before the effective filing date of the Subject Application. Therefore, US-271 does not qualify as prior art under 35 U.S.C § 102(b).

In relevant part, 35 U.S.C § 102(e) precludes patentability if the claimed subject matter was described in a patent granted on an application for patent by another filed in the United States before the inventors invented the claimed subject matter. As noted above, US-271 issued from a related application that described the subject matter recited in the new claims of the Subject Application. The subject matter described in Application No. 09/274,517 had to have been invented before the Application was filed. It is factually impossible for Application No. 09/274,517 to have described the disclosed subject matter before the inventors ever invented the disclosed subject matter.

Moreover, to qualify as prior art under 35 U.S.C. § 102(e), the patent must be granted on an application filed “by another”. The inventors listed on US-271 and the inventors listed in the Subject Application are identical. Thus, US-271 was not filed “by another” as required under § 102(e). Therefore, US-271 does not qualify as prior art under 35 U.S.C § 102(e).

Applicant respectfully submits that the other provisions of 35 U.S.C. § 102 equally fail to qualify US-271 as prior art with respect to the Subject Application.

B. The Legal Standards for Anticipation under 35 U.S.C. § 102.

A claim is anticipated only if each and every feature as set forth in the claim is described, either expressly or inherently, in a single prior art reference, arranged as required by the claim, and in as complete detail as is contained in the claim. MPEP § 2131. Indeed, the identical invention must be described with a level of detail that is as full and complete as is recited in the claims.

Moreover, to anticipate, the description must enable a person skilled in the art not only to comprehend the invention but also to make it. 1 Donald S. Chisum, Chisum on Patents § 3.04(1) (Matthew Bender). Indeed, for a reference to anticipate a claimed invention, the reference must be enabling and describe the claimed invention sufficiently to have placed it in the possession of a person skilled in the art. In re Paulsen, 30 F.3d 1475, 1478 [31 USPQ2d 1671, 1673] (Fed. Cir. 1994); Elan Pharmaceuticals, Inc. v. Mayo Foundation for Medical Education and Research, 346 F.3d 1051, 1055 [68 USPQ2d 1373] (Fed. Cir. 2003) (holding that “[t]he disclosure in an assertedly anticipating reference must be adequate to enable possession of the desired subject matter. It is insufficient to name or describe the desired subject matter, if it cannot be produced without undue experimentation.”)

C. Bickmore does not anticipate the new claims

The Office has previously asserted that certain claims in the Subject Application are non-enabled, while simultaneously asserting that the same claims are anticipated by Bickmore. This is a legally inconsistent position because the Subject Application incorporates by reference the disclosure in Bickmore (Specification, paragraph [0088], and further recited in [0089], [0092], and [0096] -- an incorporation by reference need only be made at one location in an application to be effective. MPEP § 2163.07(b) and 37 C.F.R. § 1.57).

It is legally impossible for claims in the Subject Application to be non-enabled and simultaneously anticipated by Bickmore. If claims are not enabled by the Specification (which incorporates Bickmore by reference), then the claimed invention is not enabled by Bickmore and, therefore, Bickmore cannot anticipate the claimed invention by law. Alternatively, if claims are anticipated by Bickmore, then the Specification enables the claims. The Office cannot continue to take a legally inconsistent position in this regard.

Furthermore, Bickmore fails to describe each and every feature as set forth in the claims of the Subject Application. For example, Bickmore fails to describe a

non-stoichiometric nanomaterial wherein a value for a selected material property of the non-stoichiometric nanomaterial is greater than 10% different from a value for the same property for a stoichiometric form of the nanomaterial, as recited in claims 50 and 77. Bickmore also fails to describe nanostructured composites comprising nanofillers dispersed in a polymer matrix, as recited in claims 61, 63, and 78. Thus, Bickmore does not anticipate the new claims.

Moreover, Applicant submits that Bickmore fails to teach or suggest the non-stoichiometric nanomaterials and the nanostructured composites recited in the claims of the Subject Application. Thus, Bickmore would not have rendered obvious the new claims. Therefore, Applicant respectfully requests allowance of the Subject Application.

IX. Status of Related Patent Applications

The Office's attention is directed to the following applications which may contain subject matter related to the subject matter disclosed in the Subject Application.

Application No.	Filing Date	Status Date	Status
10/315,272	Dec 10, 2002	Jun 16, 2009	Patented Case (7,547,431)
10/435,222	May 9, 2003	Jul 1, 2009	Final Rejection Mailed
10/679,611	Oct 6, 2003	Apr 8, 2009	On Appeal -- Awaiting Decision by the Board of Appeals
10/698,564	Oct 31, 2003	Jul 3, 2009	Notice of Appeal Filed
10/811,628	Mar 29, 2004	May 1, 2009	Response to Non-Final Office Action Entered and Forwarded to Examiner
10/898,849	Jul 26, 2004	May 4, 2009	Response to Non-Final Office Action Entered and Forwarded to Examiner
10/899,595	July 27, 2004	Jun 1, 2009	Response to Non-Final Office Action Entered and Forwarded to Examiner
10/969,353	Oct 21, 2004	Apr 21, 2009	Non Final Action Mailed
11/068,714	Mar 1, 2005	May 7, 2009	Final Rejection Mailed
11/157,164	Jun 21, 2005	Jun 4, 2009	Response to Non-Final Office Action Entered and Forwarded to Examiner
11/641,048	Dec 19, 2006	Jun 18, 2009	Response to Non-Final Office Action filed
11/802,256	May 21, 2007	Feb 11, 2009	Patented Case (7,498,005)
11/808,766	Jun 12, 2007	Jul 13, 2009	Response to Office Action Filed
11/812,550	Jun 20, 2007	May 28, 2009	Non Final Action Mailed
12/000,310	Dec 11, 2007	--	Docketed new case - ready for examination
12/081,115	Apr 10, 2008	--	Docketed new case - ready for examination

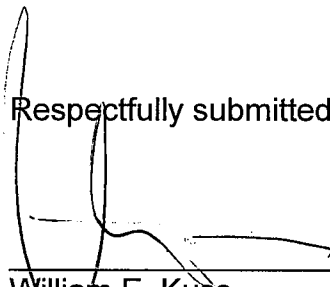
X. Conclusion

Accordingly, for at least the reasons set forth herein, the pending claims are believed to be in condition for allowance. Applicant respectfully requests favorable reconsideration and allowance of the Subject Application.

The present Response should not be taken as acquiescence to any of the specific rejections, assertions, statements, etc., presented in the Office Action that are has not explicitly addressed herein. Applicant reserves the right to specifically address all such rejections, assertions, and statements in continuing applications, subsequent responses, and/or appeal or pre-appeal proceedings.

If the undersigned can be of assistance to the Examiner in addressing any additional issues to advance the application to a condition of allowance, please contact the undersigned at the number set forth below.

Oct 8, 2009
Date

Respectfully submitted,


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